

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PETER DELVECCHIA, individually
and as next friend of A.D., a Minor,

Plaintiffs,

FRONTIER AIRLINES, INC., et al.

Defendants.

Case No.: 2:19-cv-01322-KJD-DJA

Defendants' Motion to Extend Time to file Reply in Support of Motion for Summary Judgment

(First Request)

**DEFENDANTS' MOTION TO EXTEND TIME TO FILE
REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Defendants FRONTIER AIRLINES, INC., SCOTT WARREN, and REX SHUPE (collectively “Defendants”), by their undersigned counsel, hereby move for their first extension of time to file their Reply Brief in Support of their Motion for Summary Judgment, in which Defendants seek an additional 21 days, up to and including January 5, 2023.

Date: December 11, 2023

Respectfully submitted,

FRONTIER AIRLINES, INC.

/s/ Richard C. Harris
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ARGUMENT

1) Defendants filed their Motion for Summary Judgment on October 26, 2023. (ECF No. 266)

2) Plaintiffs' Response brief was originally due on November 16, 2023.

3) Local Rule 7-3 (LR 7-3) limits a response to a motion for summary judgment to 30 pages.

4) On December 1, 2023, Plaintiffs filed a 51-page Response to Defendants' Motion for Summary Judgment. (ECF No. 281).

5) On December 4, 2023, this Court entered an Order stating Plaintiffs' Response brief was due on December 15, 2023. (ECF No. 299). As Plaintiffs had already filed their Response brief, the Order rendered Plaintiffs' Response timely filed.

6) On December 5, 2023, this Court entered on Order allowing Plaintiffs leave to file a Response brief with up to 51 pages, *including* the table of contents and table of authorities. (ECF No. 300). However, the Response brief already filed by Plaintiffs is 51 pages, *excluding* the table of contents and table of authorities.

7) Defendants' Reply brief in support of their Motion for Summary Judgment is currently due on December 15, 2023.

8) Defendants do not intend to challenge the propriety of Plaintiffs' 51-page brief, which is technically seven (7) pages over the limit permitted by the Court.

⁹⁾ However, additional time is needed for Defendants to prepare and file their Reply brief.¹

10) A motion to extend a filing deadline must be supported by a showing of “good cause” for the extension. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 608-09 (9th Cir. 1992); see also Fed. R. Civ. P. 16(b) and Local Rule 26-4. The good cause inquiry focuses on the movant’s diligence. *See Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1294-95 (9th Cir. 2000). “Good cause”

¹ Plaintiffs' counsel indicated via email that he would not oppose the instant request for an additional 21 days.

to extend a deadline exists “if it cannot reasonably be met despite the diligence of the party seeking the extension.” *Johnson*, 975 F.2d at 609. While prejudice to the opposing party may also be considered, where the movant “fail[s] to show diligence, ‘the inquiry should end.’” *Coleman*, 232 F.3d at 1295 (quoting *Johnson*, 975 F.2d at 609).

11) Good cause exists to extend Defendants' filing deadline, as Plaintiffs' oversized Response brief argues numerous facts and issues not raised in Defendants' Motion for Summary Judgment. Defendants have been diligent in seeking relief, which will cause no prejudice to Plaintiffs.

12) Given the timing of Plaintiffs' Response brief and the quickly approaching Holiday season, Defendants respectfully request an extension of 21 days, until January 5, 2024, to file their Reply in Support of their Motion for Summary Judgment. This is Defendants' first request for such an extension, and this request is not sought for any improper purpose such as delay or prejudice.

CONCLUSION

For the foregoing reasons, Defendants' respectfully request that this Court allow Defendants an additional 21 days, until January 5, 2024, to file their Reply Brief in Support of Their Motion for Summary Judgment.

Date: December 11, 2023

Respectfully submitted,

FRONTIER AIRLINES, INC.

/s/ Richard C. Harris
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CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2023, I caused the foregoing to be electronically filed with the United States District Court for the District of Nevada using the CM/ECF system.

By: /s/ Richard C. Harris